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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/978,553	10/18/2001	Kazuhiko Isoyama	317269/00	5071

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EXAMINER

HOM, SHICK C

ART UNIT PAPER NUMBER

2616

DATE MAILED: 04/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/978,553	Applicant(s) ISOYAMA, KAZUHIKO	
	Examiner Shick C. Horn	Art Unit 2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-24 and 39-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18-24, 39-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 1/19/06 have been fully considered but they are not persuasive.

In page 5 lines 10-17 of the remarks, applicant argued that only Moura et al. is relied upon for the rejection of claims 18 and 39 is not correct because page 4 of the office action recite that Moura et al. disclose all the subject matter of the claimed invention with the exception of the client transmitting to the server the request packet specifying in advance the priority class upon distribution of the content packet as in claims 18 and 39." Moura et al. is merely relied upon for disclosing a controlling method of priority class setup in a communication system in which a client and a server are connected via a communication network for distributing a content packet in correspondence with requests from said client, said corresponding content packet being distributed from said server while providing classified communication quality based on a priority class, said controlling method of priority class setup comprising the step of: transmitting said content packet from said server to said client with said priority class. Moura et al. in claim 130 at col. 32 lines 47-53 is used to support the

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limitation that the server transmit to the client content packet including priority class information, i.e. the common network management system at the server effects control of assignment of upstream channels to the clients in accordance with the channel request signal from the client, a priority status signal and class of service signal. However, Dilip et al. in claim 1 col. 15 lines 42-64 is used to reject the limitation that the client transmitting to the server the request packet specifying in advance the priority class upon distribution of the content packet

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 18-21 and 39-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moura et al. (5,818,845) in view of Dilip et al. (6,704,409).

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Regarding claims 18, 39:

Moura et al. disclose a controlling method of priority class setup in a communication system in which a client and a server are connected via a communication network for distributing a content packet in correspondence with requests from said client, said corresponding content packet being distributed from said server while providing classified communication quality based on a priority class (see Fig. 4 which shows the client 74 and server 72 connected to the communication network 38, and the abstract which recite using a network communication system in a client-server environment including means for controlling the forward and return communication to establish interactive sessions between the host and client devices in response to requests and priorities), said controlling method of priority class setup comprising the step, of: transmitting said content packet from said server to said client with said requested priority class thus specified (see col. 32 lines 47-53 which recite wherein control of channels to clients being in accordance with the request signal, priority signal, and class of service signal clearly reads on the transmitted request packet specifying in advance a priority class).

Regarding claims 20-21 and 41-42:

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Moura et al. disclose the step of performing accounting for said client by said server in accordance with a priority class and quantity of said content packet (see Figs. 19-20 and col. 15 lines 28-54 which recite providing a report of credit indicating the use of channel for packet transmissions to the server as an accounting function clearly anticipate the step of performing accounting for said client by said server).

Moura et al. disclose all the subject matter of the claimed invention with the exception of the client transmitting to the server the request packet specifying in advance the priority class upon distribution of the content packet as in claims 18, 39; and the step of: modifying said specified priority class of said request packet in a case where said client judges that said content packet does not satisfy requested communication quality as in claims 19, 40.

Dilip et al. from the same or similar fields of endeavor teach that it is known to provide the client transmitting to the server the request packet specifying in advance the priority class upon distribution of the content packet (see claim 1 in col. 15 lines 42-64 which recite receiving a transaction from an initiator identifying the transaction type wherein the transaction type being real-time transaction, a higher priority than a non-real time transaction and wherein both real-time and

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non-real-time transactions can be processed clearly reads on the client transmitting to the server the request packet specifying in advance the priority class upon distribution of the content packet); and the step of modifying said specified priority class of said request packet in a case where said client judges that said content packet does not satisfy requested communication quality (see col. 16 lines 4-10 which recite the step of modifying the priority assigned to the transaction to prevent violation of the service level threshold specified). Thus, it would have been obvious to the person having ordinary skill in the art at the time the invention was made to provide the client transmitting to the server the request packet specifying in advance the priority class upon distribution of the content packet as in claims 18, 39; and the step of: modifying said specified priority class of said request packet in a case where said client judges that said content packet does not satisfy requested communication quality as in claims 19, 40 as taught by Dilip et al. in the communications controlling method and system of Moura et al. The client transmitting to the server the request packet specifying in advance the priority class upon distribution of the content packet; and the step of modifying said specified priority class of said request packet in a case where said client judges that said content packet does

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not satisfy requested communication quality can be implemented by specifying the priority class in the client request, i.e. specifying whether the transaction is real-time transaction or non-real-time transaction, including the step of modifying the priority class if the communication quality is not satisfied in the client of Moura et al. The motivation for specifying the priority class in the client request and providing the step of modifying the priority class if the communication quality is not satisfied as taught by Dilip et al. in the communication controlling method and system of Moura et al. being that they provide the added desirable features of the client being able to control and modify the priority of the content packet from the server in order to provide a higher communication quality to the client.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened

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statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shick C. Hom whose telephone number is 571-272-3173. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on 571-272-3174. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SH

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Seema S. Rao
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